



State of Ohio Environmental Protection Agency

Southeast District Office

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Bob Taft, Governor
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October 13, 2006

Re: Belmont County
American Energy Corporation
Facility ID # 0607000229
Notice of Violation

Fred Blumling
American Energy Corporation
43521 Mayhugh Hill Rd.
Beallesville, OH 43716

Dear Mr. Blumling:

On October 3, 2006, I conducted an inspection of the clean coal storage pile (emissions unit F002) at American Energy Corporation's (AEC) Century Mine in Beallesville, Ohio. The inspection was conducted as a follow-up to my site visits of August 7, 2006 with Lisa Duvall and August 30, 2006 with Steve Lowry when Ohio EPA's Division of Air Pollution Control investigated complaints of coal dust impacts and sulfur fumes from burning coal in the clean coal pile. You represented AEC during the August site visits but the October 3rd inspection was conducted from Township Road 74 with no facility personnel present. During the inspection and site visits, Ohio EPA evaluated the facility's compliance with state and federal air pollution rules and regulations with respect to this storage pile.

Based on the October 3, 2006 inspection and additional reports from the complainant on September 7 and 25, 2006, the following violations have been documented:

(1) ***Visible Particulate Emissions***

Ohio Administrative Code (OAC) rule 3745-17-07(B)(6)

Except as provided in paragraphs (B)(7) to (B)(11) of this rule, there shall be no visible particulate emissions from any material storage pile except for a period of time not to exceed thirteen minutes during any sixty-minute observation period, as determined in accordance with paragraph (B)(4) of rule 3745-17-03 of the Administrative Code.

A Method 22 observation was conducted on the clean coal storage pile in accordance with the "Appendix on Test Methods" in 40 CFR Part 60 ("Standards of Performance for New Stationary Sources"), as such Appendix existed on July 1, 1996. Visible particulate emissions from wind erosion were observed for 23 minutes and 9 seconds during the 55-minute observation period. Therefore, emissions unit F002 was in violation of OAC rule 3745-17-07(B)(6).

(2) ***Restrictions on Fugitive Dust Emissions***
OAC rule 3745-17-08(B)(6)

No person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances or a road to be used, constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne. Such reasonably available control measures shall include, but not be limited to, one or more of the following which are appropriate to minimize or eliminate visible particulate emissions of fugitive dust:

- (6) The periodic application of water or other suitable dust suppression chemicals, the installation of storage silos, bins or other enclosed structures, or the use of canvas or other suitable coverings, for all materials stockpiles and stockpiling operations, except temporary stockpiles and stockpiling operations for grain and grain products

AEC has failed to provide reasonably available control measures that are sufficient to minimize or eliminate visible emissions of coal dust associated with the clean coal storage pile. Although AEC informed Ohio EPA that a dust suppressing chemical is being applied to the coal prior to being loaded onto the pile, it does not appear this chemical is effective in preventing coal dust from blowing off the pile and off AEC property.

To resolve violation #'s 1 and 2 above, AEC must immediately investigate and implement more effective control measures that will prevent wind erosion of coal from the clean coal storage pile as required in Condition A.2.e. in Part II, Special Terms and Conditions for Emissions Unit F002 in PTI # 06-06463, issued on June 7, 2001.

(3) ***Permit Condition II.A.1. of PTI # 06-06463 for Emissions Unit F003 (Unpaved Roadways and Parking Areas)***

Particulate emissions shall not exceed 2.0 tons per year (tpy).

In a letter from AEC dated October 9, 2006, the company reported that it had recalculated actual emissions for emissions unit F003 for 2005, and had documented an exceedance of the allowable particulate emissions of 2.0 tpy in PTI #06-06463 for this unit. Based on significant increases in large vehicle miles traveled (82,000 vs. 3,100), significantly more particulate than the current permitted allowable was emitted in 2005. Assuming there were no changes in the amount of small truck traffic, the actual particulate emissions were at least 26 tpy.

The October 9th letter indicated that to resolve the non-compliance, a new PTI application would be submitted to request higher allowable particulate emissions for

this unit. A PTI modification application (#06-08208) was received on October 2, 2006, and in this application AEC has requested allowable particulate emissions for this unit of 40 tons per year. Ohio EPA is currently processing this modification request. No further action to address this violation is required at this time.

(4) **Permit-to-Operate (PTO) Application**
OAC rule 3745-35-02(B)(5)

Applications for permits to operate for new sources shall be filed no later than ninety days after commencement of operation.

Copies of past-due deviation reports received by Ohio EPA revealed that the Century Mine has been operated by AEC since at least May 1, 2002. However, my review of company files revealed that no PTO applications had been submitted for the four emissions units at the facility. In a September 8, 2006 email correspondence, AEC was notified of its failure to apply for PTOs. On October 10, 2006, this office received PTO applications for the four emissions units at this facility. No further action to address this violation is required at this time.

(5) **Open Burning**
OAC rule 3745-19-04

No person or property owner shall cause or allow open burning in an unrestricted area except as provided in paragraphs (B) to (C) of this rule or in section 3704.11 of the Revised Code.

During my inspection on October 3, 2006, I observed and photographed an area on the northwest side of the clean coal pile that was actively burning. No effort was made to extinguish this fire for the duration of my visit (~1 hour and 20 minutes). The complainant also reported fires in the clean coal pile that resulted in significant sulfur odors on several days in September. This appears to be an ongoing problem as the company was cited, by letter dated October 27, 2005, for unlawful open burning in the raw coal pile. Note that this letter requested a written response indicating AEC's commitment to cease open burning and submittal of a plan and schedule for prevention of fires; a plan and schedule for controlling dust emissions from your facility was also requested. To date, Ohio EPA has not received a response from AEC to this letter, and the open burning and fugitive dust violations continue. AEC must provide Ohio EPA with a plan for preventing and controlling fires in the coal storage piles.

Within 30 days of receipt of this letter, please submit to this office a compliance plan and schedule to demonstrate that AEC has or will take actions to resolve the above-listed violations of Ohio's air pollution regulations. Since AEC has requested increases in production rates and allowable particulate emissions from all four units at this facility, the compliance plan and schedule requested above must include steps the company will take to achieve and maintain compliance with all applicable requirements at the higher production rates that were requested in the PTI modification application.

Fred Blumling
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Comment:

During the site visit on October 3, 2006, several trucks were seen accessing the coal processing plant, and significant dust emissions were observed on the haul roads around the plant as each truck passed. It did not appear the roadways had been watered recently, and had more truck traffic had been present, a visible emission violation for these roadways may have been documented. Thus, AEC is advised to make better efforts to ensure that its roadways (emissions unit F003) are operated in a manner that prevents fugitive dust emissions in excess of permit limitations.

Each of these violations can carry a maximum fine of \$25,000.00 per offense per day as provided by the Ohio Revised Code 3704.06. Acceptance by the Ohio EPA of a schedule for compliance does not constitute a waiver of the Ohio EPA's authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code. The determination to pursue or decline to pursue such penalties in this case will be made by the Ohio EPA at a later date.

If you are unable to respond to any part of this request, within the time frame discussed above, please inform us and explain so that we may be of assistance. Should you have any questions, feel free to contact me at (740) 380-5245 or via email at kimbra.reinbold@epa.state.oh.us.

Sincerely,



Kimbra L. Reinbold
Division of Air Pollution Control
Southeast District Office

KLR/mlm

cc: Tom Kalman, DAPC/CO
Lisa Holcsher, USEPA